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CHARLES ELMORE CROPLEY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1935
No. 636

JAMES WALTER CARTER - - - - Petitioner,
v.
CARTER COAL COMPANY, GEORGE L. CARTER, as Vice-President and a Director of said Company, et al.

ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

BRIEF OF STATE OF INDIANA AS AMICUS CURIAE.

PHILIP LUTZ, JR.,
Attorney General of Indiana.
URBAN C. STOVER,
First Deputy Attorney General of Indiana.

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The undersigned, as Attorney General of the State of Indiana, files this brief in the above entitled cause, because of the interest that the State and its citizens have in the regulation of the interstate commerce in bituminous coal contemplated by the Bituminous Conservation Act of 1935.

The State of Indiana produces about 5 per cent of the national output of bituminous coal. Its product is largely sold in inter-

state commerce, and, in the domestic consumption of its coal, prices are determined by the competition of coal shipped into the state from other states, particularly Kentucky, Ohio, West Virginia and Pennsylvania.

For the last 12 years the industry has been in a demoralized state owing to the devastating competition that has prevailed. During this period, which embraces the generally prosperous years down to the Fall of 1929, coal lands and properties gradually declined in value and dried up as a source of local and state tax revenues; the coal deposits were wasted under the competitive pressure that led to the extraction only of the coals produced most cheaply; and mining communities became a burden on the relief agencies of the state and its citizens.

For the most part coal production in the State has been conducted under a collective bargain wage scale. But following the breakdown of the union scale in Ohio, Pennsylvania and elsewhere in 1927, many producers in Indiana went upon the open-shop basis. Wage cutting at these mines, in an expressed effort to secure relative parity with other fields in production costs, and the effort of such wage cutting on miners employed under a union scale, have resulted in numerous strikes and frequent disorders that at times required intercession of the National Guard.

Indiana has also experienced shortages of coal supply due to suspensions occasioned by the inability of management and labor to agree upon a wage scale because of competition from other fields. These suspensions and strikes have resulted in an insufficient supply of coal and in some instances of inordinate prices for coal supplied to the people of the State and its public institutions.

The Indiana legislature created a special Coal and Food Com-

mission with authority to set maximum prices on coal produced in the State and to distribute coal so produced at this maximum price for domestic consumption. This Act was the result of the excessive prices occasioned by the national shut-down of bituminous coal mines in the strike of 1919 and 1920. The Act itself proved unenforceable.

No further effort has been made by the State to regulate the industry and its commerce in its intrastate or domestic aspects. Any effort in that direction would seem futile in view of the interstate trade in coal and would merely aggravate the existing difficulties in the coal fields and communities of Indiana.

It would appear that practical and constitutional difficulties render state regulation futile. Federal regulation of the character provided in the Coal Act of 1935, would appear to be the only practical solution for the disorders of this industry and commerce.

Respectfully submitted,

PHILIP LUTZ, JR.,
Attorney General of Indiana
as Amicus Curiae.

URBAN C. STOVER,
First Deputy Attorney General of Indiana.